UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/NGO/23
8 July 1999

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fifty-first session
Provisional agenda item 9

THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 July 1999]

1. The FIDH and its affiliate, the Viet Nam Committee on Human Rights, are deeply disturbed by the non-application of international standards of justice in the Socialist Republic of Viet Nam (SRV). On the pretext of "national security" infringements, citizens are routinely deprived of their freedom under domestic legislation on "probationary detention" (quan che) or "administrative detention" (quan che hanh chinh). These concepts, which are applied widely and indiscriminately against government critics, human rights defenders and independent religious clergy and followers, impose restrictions on the fundamental rights of freedom of expression, opinion and belief which are inadmissible under international law. Quan che, or "probationary detention" (article 30 of the Criminal Code) allows the State to place persons convicted of "national security" offences under the supervision and re-education of local authorities for a period of one to five years after completion of their prison sentences, during which time they are forbidden to leave their residence, deprived of their civic rights and maintained under constant police surveillance. In theory, quan che requires a court order but, in practice, it is automatically applied to political and religious prisoners after their release. Buddhist monks Thich Quang Do, Thich Tue Sy and Thich Nhat Ban, released under amnesty in September 1998 by order of President Tran Duc Luong, have not been issued with residence permits (ho khau); their communications are monitored and visits to their pagodas are suspended. The Special Ranporteur on Religious Intolerance of the Commission on Human Rights, Mr. Abdelfattah Amor, was forcefully prevented from visiting Thich Quang Do at the Thanh Minh monastery in October 1998, and in March 1999, Thich Quang Do was arrested and held in custody for one day after he left his pagoda to visit Thich Huyen Quang, Patriarch of the Unified Buddhist Church of Viet Nam (UBCV) in Quang Ngai province. UBCV monks Thich Tri Tuu, Thich Hai Thinh and Thich Hai Chanh are similarly detained, although they have fully served their prison sentences and were not condemned to quan che at their trial on 15 November 1993. Released on 7 March 1997, Thich Tri Tuu was taken straight from prison to the State-sponsored Tay Thien pagoda in Hue, where he is at present detained.

2. The FIDH and the Viet Nam Committee consider the arbitrary application of "probationary detention" to be tantamount to a second term of punishment and thus incompatible with article 14 (7) of the International Covenant on Civil and Political Rights, which states that no one "shall be ... punished again for an offence for which he has already been finally convicted".

3. Quan che hanh chinh, or "administrative detention" (decree 31/CP) empowers local security police to detain suspected "national security" offenders for six months to two years without trial. Many government critics, such as the intellectual Ha Si Phu, the poet Bui Minh Quoc and others, are detained under this formidable tool of political repression. Mr. Amor, in his report on his visit to Viet Nam to the fifty-fifth session of the Commission on Human Rights (E/CN.4/1999/58/Add.2) expressed his "concern at the extraordinary powers conferred on the security services", who may arrest citizens under decree 31/CP for activities "that are fully legitimate under international law".

4. The FIDH and the Viet Nam Committee are particularly concerned by the widespread arbitrary detentions and prosecutions of critics and human rights advocates on charges of "endangering national security". As both Mr. Amor and

the Working Group on Arbitrary Detention (see E/CN.4/1995/31/Add.4) observed, the catch-all "national security" provisions in Vietnamese law heavily penalize the peaceful expression of political or religious dissent.

9. In re-education camps such as T5, Thanh Cam district in Thanh Hoa province, many prisoners of conscience are seriously ill, suffering from the cumulative effects of solitary confinement, hard labour and harsh living conditions. The prisoners cited below have lost almost all their teeth from malnutrition and vitamin deficiencies, and receive no medical care. Most were convicted of "attempting to overthrow the people's government" (under article 73 of the Criminal Code). This ambiguous and dangerous clause, which carries the death sentence as maximum penalty, makes no distinction between acts of violence, such as terrorism, and peaceful political dissent. Given the judiciary's lack of independence in Viet Nam, people may legally be killed under article 73 for disagreeing with the policies of the State:

Tran Van Luong, aged 58, former Member of Parliament in the Republic of (South) Viet Nam (RVN), sentenced to death on 22 September 1988 for distributing human rights leaflets (sentence commuted to life imprisonment following an international campaign launched by the Viet Nam Committee on Human Rights), is dangerously ill, suffering from serious liver and stomach complaints;

Brother Mai Duc Chuong, aged 68, member of the Roman Catholic Congregation of the Mother Coredemptrix, sentenced in 1987 to 20 years' imprisonment for "spreading propaganda against the Socialist regime and undermining the policy of unification", suffers from high blood pressure and chronic arthritis;

Vu Dinh Thuy, aged 50, imprisoned without trial for "re-education" in 1975 was accused of writing poetry in prison in 1979 and arbitrarily condemned to life imprisonment by an ad hoc tribunal. He is in very poor health after long years of detention, ill-treatment and malnutrition;

Tran Nam Phuong, aged 49, a lay Buddhist, condemned to death in 1983 (sentence commuted to life imprisonment on 31 December 1985), suffers chronically from haemorrhoids and gastropsis;

Phan Van Ban, aged 60, former RVN officer, sentenced to life imprisonment in 1965, suffers from chronic asthma and arthritis;

Nguyen Van Bao, aged 65, a history and geography teacher, condemned to life imprisonment in 1985, is critically ill, suffering from tuberculosis and high blood pressure;

Do Huon, aged 55, Vietnamese-American, arrested in March 1993 and sentenced to life imprisonment for attempting to organize demonstrations in Viet Nam, suffers from diabetes;

Le Van Son, aged 67, member of the Hoa Hoa religious sect, arrested in 1982 and sentenced to life imprisonment, suffers from high blood pressure;

Nguyen Truong, aged 67, a peasant, sentenced to life imprisonment in 1985, with one leg amputated, suffers from severe sciatica, high blood pressure, malnutrition and depression (he has been deprived of all correspondence with his wife for several years); he has attempted to commit suicide several times by banging his head on the cell wall.

6. Ill-treatment and deplorable conditions of detention also prevail in Z30A camp in Xuan Loc district in Dong Nai province. UBCV monks Thich Thien Minh and Thich Khong Tanh informed Mr. Amor during his visit to the camp that prisoners are held in solitary confinement, chained, refused pen and paper, exposed to AIDS contamination by the shared use of the same razor blades, that even sick and elderly prisoners (over 70 years old) must perform hard labour, and that the lives of many sick people are in danger.

Thich Thien Minh (Lay name Huynh Van Ba), aged 49, is serving a double life sentence for defending religious freedom (1979) and for attempted escape (1986). Detained in K2, a disciplinary sub-camp in the depths of the forest, Thich Thien Minh is very weak after months of solitary confinement, but must nevertheless perform strenuous hard labour. He was declared a victim of arbitrary detention by the Working Group on Arbitrary Detention (Opinion 21/1997);

Thich Hue Dang (Nguyen Ngoc Dat), aged 55, a UBCV monk, was sentenced to 20 years' imprisonment on 28 May 1992 for writing pamphlets on Buddhism and democratic reform. Mr. Amor was not allowed to meet him during his visit. He suffers from diabetes;

Nguyen Dinh Huy, aged 66, was arrested in November 1993 and sentenced to 15 years in prison for attempting to organize an international conference on economic development and democracy in Ho Chi Minh City;

John Bosco Pham Minh Tri, Bernard Nguyen Viet Huan and Michael Nguyen Van Thin, Catholic priests, members of the Congregation of the Mother Coredemptrix, arrested in 1987, are serving 16-20 year sentences. Mr. Amor asked to meet these priests but the prison commandant denied their presence in the camp;

Hoang Van Giang, lay Buddhist, sentenced to 19 years' prison in 1992, has gone blind as a result of ill-treatment and frequent beatings in the camp.

7. Moreover, the FIDH and the Viet Nam Committee strongly condemn the widespread, arbitrary practice of placing citizens under house arrest (quan thuc) without trial or due process of law:

Thich Huyen Quang (Le Dinh Nhan), 79 year old Patriarch of the independent UBCV, has been under house arrest in Quang Ngai province since 1982. The Quang Ngai police announced on 22 November 1997 that his house arrest had been lifted. However, they maintained him in detention and forbade him to return to his residence in An Quang pagoda, Ho Chi Minh City. On 22 March 1999, he was arrested and subjected to intensive question because he received a visit from Thich Quang Do;

Thich Lieu Minh (Le Van Hien), UBCV monk, has spent 22 years under house arrest without charge. He is now detained in Tam Heip village in My Tho province.

8. The FIDH and the Viet Nam Committee on Human Rights:

(i) fully endorsing the recommendations of the Working Group on Arbitrary Detention and the Special Rapporteur on Religious Intolerance, urge Viet Nam to take positive steps to bring its domestic legislation into line with international law, especially regarding the ambiguous definitions of "national security" offences;

(ii) request the Sub-Commission to include the names of detained human rights defenders Thich Huyen Quang, Thich Thien Minh, Thich Hue Dang, Tran Van Luog, Vu Dinh Thuy and Tran Nam Phuong in the resolution on human rights defenders at its fifty-first session.

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